

ESTTA Tracking number: **ESTTA684391**

Filing date: **07/17/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	E. & J. Gallo Winery
Granted to Date of previous extension	07/19/2015
Address	600 Yosemite Boulevard Modesto, CA 95354 UNITED STATES
Attorney information	Steven M. Weinberg Holmes Weinberg 30765 Pacific Coast Hwy. Suite 411 Malibu, CA 90265 UNITED STATES hwtrademarks@gmail.com, msalvatore@holmesweinberg.com Phone:310 457 6100

Applicant Information

Application No	86241148	Publication date	01/20/2015
Opposition Filing Date	07/17/2015	Opposition Period Ends	07/19/2015
Applicant	GIRAFFAS ADMINISTRADORA DE FRANQUIAS S/A Setor Comercial Sul, Quadra 01, Bloco F Brasília, DF, BRAZIL		

Goods/Services Affected by Opposition


Class 030. First Use: 2011/06/01 First Use In Commerce: 2011/06/01
All goods and services in the class are opposed, namely: Sandwiches, namely, chicken sandwiches


Grounds for Opposition

Dilution	Trademark Act section 43(c)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	891339	Application Date	09/17/1969
Registration Date	05/19/1970	Foreign Priority Date	NONE
Word Mark	GALLO		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 033. First use: First Use: 1909/00/00 First Use In Commerce: 1909/00/00 WINES [AND CHAMPAGNES]


U.S. Registration No.	887959	Application Date	01/17/1969
Registration Date	03/17/1970	Foreign Priority Date	NONE
Word Mark	GALLO		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U046 (International Class 001, 005, 029, 030, 031, 032). First use: First Use: 1962/11/19 First Use In Commerce: 1968/07/22 PREPARED MEAT PRODUCTS-NAMELY, SALAME, SAUSAGE, MORT-ADELLA, CURED MEATS [, ANDMEAT LOAF] ; AND CHEESE		


U.S. Registration No.	2320063	Application Date	07/25/1997
Registration Date	02/22/2000	Foreign Priority Date	NONE
Word Mark	GALLO		

Design Mark	GALLO
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 1988/05/01 First Use In Commerce: 1988/05/01 clothing, namely, T-shirts, sweatshirts, shirts and caps

U.S. Registration No.	3128127	Application Date	04/28/2005
Registration Date	08/08/2006	Foreign Priority Date	NONE
Word Mark	GALLO FAMILY VINEYARDS		
Design Mark			
Description of Mark	The mark consists of the design of the heads of two roosters and the wording "Gallo Family Vineyards".		
Goods/Services	Class 033. First use: First Use: 2005/11/01 First Use In Commerce: 2005/11/01 WINES		

U.S. Registration No.	3382558	Application Date	12/29/2006
Registration Date	02/12/2008	Foreign Priority Date	NONE
Word Mark	GALLO		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 021. First use: First Use: 2006/12/18 First Use In Commerce: 2006/12/18 BEER MUGS, EARTHENWARE MUGS, GLASS MUGS, MUGS, PORCELAIN MUGS Class 025. First use: First Use: 2007/01/15 First Use In Commerce: 2007/01/15 CAPS, [SHIRTS, JACKETS]

U.S. Registration No.	4011309	Application Date	08/03/2010
Registration Date	08/16/2011	Foreign Priority Date	NONE
Word Mark	GALLO SALAME		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 1985/05/31 First Use In Commerce: 1985/05/31 Cheese; Processed meat		

Attachments	72338083#TMSN.png(bytes) 72316889#TMSN.png(bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Nelda Piper/
Name	Nelda Piper
Date	07/17/2015

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re Serial No. 86/241,148

E. & J. Gallo Winery,

Opposer,

v.

Giraffas Administradora de Franquias,

Applicant.

Opposition No. _____

NOTICE OF OPPOSITION

TO: ASSISTANT COMMISSIONER FOR TRADEMARKS
BOX TTAB –FEE
2900 Crystal Drive
Arlington, VA 22202-3513

Opposer E. & J. Gallo Winery (“Gallo”), a corporation organized and existing under the laws of the State of California, believes that it would be damaged by registration of the above-referenced mark, and hereby opposes the same. As grounds for this Opposition, Gallo respectfully alleges as follows:

1. Opposer Gallo is a corporation organized and existing under the laws of the State of California, having a place of business at 600 Yosemite Blvd., Modesto, California 95354.
2. Gallo is the exclusive owner in the United States of the following federally registered GALLO® marks, and other word and design marks that incorporate the GALLO trademark, and of common law rights therein (collectively, the “GALLO® Marks”):

Reg. Number	Reg. Date	Trademark
0891339	05/19/1970	GALLO (stylized word mark)
0887959	03/17/1970	GALLO and Design

2320063	02/22/2000	GALLO
3128127	08/08/2006	GALLO FAMILY VINEYARDS and Design
3382558	02/12/2008	GALLO and Design
4011309	08/16/2011	GALLO SALAME

3. These registrations are valid and enforceable, and Gallo's exclusive rights in Reg. Nos. 0891339, 0887959, 2320063, 3128127 and 3382558 are incontestable.

4. Gallo has used the GALLO trademark in the United States since at least the 1950's. For more than fifty years, Gallo has produced, advertised, promoted, distributed and sold goods and services in interstate commerce under its GALLO® Marks.

5. The mark subject to this Opposition is GALO DE BRIGA, Serial No. 86/241,148 (the "Opposed Mark") for "Sandwiches, namely, chicken sandwiches" in International Class 030.

6. Applicant filed United States Application Serial No. 86/241,148 with the U.S. Patent and Trademark Office on or about April 3, 2014. The Application for the Opposed Mark is based on actual use, with a claimed date of first use of June 1, 2011.

7. Gallo's use and registration of its GALLO® Marks long pre-date the filing date of Applicant's USPTO Application for the Opposed Mark, or Applicant's claimed date of first use of the Opposed Mark.

8. Through extensive advertising, promotion and sales of goods under the GALLO® Marks throughout the United States, the GALLO® Marks have become famous in the United States.

9. Gallo's GALLO® Marks were famous prior to the filing date of Applicant's USPTO Application for the Opposed Mark, or Applicant's claimed date of first use of the Opposed Mark.

10. Due to the similarity between the Opposed Mark and the GALLO® Marks in overall commercial impression, registration of the Opposed Mark is likely to cause dilution to Gallo's GALLO® Marks, to the injury of Gallo, by lessening the capacity of the GALLO® Marks to identify and distinguish Gallo's goods and services, or otherwise diluting or tarnishing Gallo's famous GALLO® Marks.

11. Based on the foregoing, the grant of a registration for the Opposed Mark as sought in Applicant's USPTO Application for the Opposed Mark should be denied based on a likelihood of dilution of the distinctive quality of Gallo's famous GALLO® Marks, in violation of Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).

12. The registration of the Opposed Mark would be inconsistent with Gallo's rights in its GALLO® Marks and will cause damage to Gallo.

WHEREFORE, Gallo respectfully prays that registration of the Opposed Mark not be permitted.

DATED this 17th Day of July, 2015.

Respectfully submitted,

By: /s/ Steven M. Weinberg
Steven M. Weinberg
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Malibu, CA 90265
310.457.6100
smweinberg@holmesweinberg.com

Attorneys for Opposer E. & J. Gallo Winery

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing NOTICE OF OPPOSITION was served by US Priority mail to Applicant's counsel at the following address:

Bassam Ibrahim
Buchanan Ingersoll & Rooney PC
1737 King Street, Suite 500
Alexandria, VA 22314-2727

DATED: July 17, 2015

By: /s/ Nelda Piper
Nelda Piper
Paralegal